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AGC of America
THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

Quality People. Quality Projects.



Submitted electronically at <http://www.regulations.gov>

April 16, 2010

Mr. John V. Ladd
Employment and Training Administration
Office of Apprenticeship
200 Constitution Avenue NW.
Room N5311
Washington, DC 20210

Re: Docket Identification Number ETA-2010-0001

Dear Mr. Ladd:

The Associated General Contractors of America (AGC) is pleased to provide the following comments on the pending proposal to revise the federal regulations governing Equal Employment and Opportunity in Apprenticeship and Training, codified at Title 29 Code of Federal Regulations part 30 (29 CFR 30). See 75 Fed. Reg. 10505 (2010).

AGC is the nation's largest and most diverse trade association in the commercial construction industry. AGC's 32,000 members include 7,000 general construction contractors, 12,000 specialty contractors, and 13,000 suppliers and service providers, in a nationwide network of 95 chapters. AGC represents both union and open shop contractors in the building, highway, heavy industrial, and municipal utility sectors of the construction industry.

The AGC is a membership organization dedicated to furthering the ever-changing agenda of commercial construction contractors, improving job site safety, expanding the use of cutting edge technologies and techniques and strengthening the dialogue between contractors and owners.

Our members and chapters both sponsor and jointly sponsor registered apprenticeship programs nationwide and have long recognized the need to reach out to nontraditional labor pools – including women, minorities, veterans, and ex-offenders – in order to ensure there are adequate amounts of skilled construction professionals to build and maintain the nation's infrastructure in the 21st century and beyond.

Among the many efforts to recruit and retain women and minorities, as well as ensure a safe workplace for all construction employees, AGC of America and its members and chapters have:

- Provided training – through manuals and dvds – to construction professionals on affirmative action requirements, preventing on-the-job harassment of any type, and creating a model hiring program.
- Helped develop and use AGC's Project Manager Development Program, Supervisory Training Program and Project Manager Series, all of which offer modules on ethics, leadership, working in teams, team building, and motivation that promote the values of skill, integrity, and responsibility espoused by AGC and its member firms.



- Promote all webinars and in-seat training programs offered by the Office of Federal Contract Compliance Programs (OFCCP) which is responsible for ensuring that federal contractors do not discriminate and take affirmative action. In addition, we had a representative from OFCCP speak at the 2009 HR Professionals Conference.

In addition:

- The AGC 91st Annual Convention included a breakout educational session on protecting women's safety in construction.
- Representatives from AGC of America, our chapters, and members – including AGC 2010 Senior Vice President Kristine L. Young, CEO of a 62-year-old, full-service horizontal boring/tunneling and directional drilling company – sponsored, attended, and spoke at the recent McGraw-Hill National Leadership Conference for Women in Construction, held in New York City.
- AGC's craft training partner, the National Center for Construction Education and Research, has produced "Tools for Success: Soft Skills for the Construction Industry," training guide that includes separate modules on teamwork, diversity, communication skills, resolving conflict and sexual harassment, among others. This training guide is used by AGC members and chapters, as well as high schools, YouthBuild and JobCorps programs, and prison training facilities around the nation.
- For AGC members whose craftworkers are unionized, there are joint labor-management apprenticeship training programs, including those offered through the International Brotherhood of Carpenters and Joiners, and the Laborers International Union of North America, among others, that provide similar "soft skills" training.

AGC fully understands that recruitment into the industry begins long before young people are actually ready to make a career choice. We have worked alone and with other key players in the industry to increase the number of young people choosing a career in construction and to recruit under-tapped populations, such as women and minorities.

AGC's most recent initiatives include partnerships with the Boys & Girls Clubs of America and the Girl Scouts of America that have provided youth around the country with more than 500 donated "Build Up!" kits that introduce children ages 9 to 11 to the possibility of pursuing careers in the construction industry.

Many of AGC's 95 chapters also are making a difference on a local level through their commitments to construction career academies and charter schools, such as AGC of St. Louis's success with the Construction Careers Center in St. Louis, Mo., and AGC of Metropolitan Washington, D.C.'s dedication to the Phelps Architecture, Construction and Engineering Academy in Washington, D.C., both of which serve a largely African-American population. AGC of San Diego has long supported the Stanley E. Foster Construction Tech Academy and AGC of Houston has worked for several years with the Houston Independent School District's Furr High School Academy of Construction, Art, Science and Technology, both of which serve a primarily Hispanic population.

AGC members and chapters help sponsor dozens of annual Construction Career Day events, which highlight the importance of the construction industry while providing high school students an



introduction to the broad array of rewarding and diverse career opportunities offered by the commercial construction industry. Of 48 events held in 2009, two, designated “girls only,” attracted more than 1,000 young women. The other 46 events attracted nearly 46,000 students, with an average minority attendance of 67 percent (approximately 31,500 students) and an average female attendance of 23 percent (approximately 10,500 students).

In preparing to write these comments, AGC reviewed both the current version of 29 CFR 30 and the U.S. Department of Labor’s stated goals of:

- “[R]eviewing barriers to equal opportunity in registered apprenticeship programs and will be looking at ways to ensure that all individuals, including women and minorities, have equal opportunities in registered apprenticeship programs;”
- Promoting and expanding “registered apprenticeship opportunities in the 21st century while continuing to safeguard the welfare and safety of apprentices;” and
- Ensuring the regulations in 29 CFR 30 “align with the recent revisions to the part 29 regulations.”

Taking the last item first, AGC cannot find any way in which 29 CFR 30 fails to align with the recent revisions to the part 29 regulations, changes that we commented on during the rulemaking process and found, for the most part, favorable.

We certainly support efforts to expand registered apprenticeship opportunities while safeguarding the welfare and safety of *all* construction industry employees, including apprentices. We believe that the recent changes to part 29 will help in expansion efforts.

However, we are concerned about what direction – unknown at this point – the Department’s efforts to ensure equal opportunities in apprenticeship programs will take. While we understand that an important component of 29 CFR 30 is a definition of “affirmative action” that includes “procedures, methods, and programs for the identification, positive recruitment, training, and motivation of present and potential minority and female (minority and nonminority) apprentices,” we would caution against implementing an overly proscriptive definition.

Given that a study published in 2005, by Cihan Bilginsoy of the University of Utah, found that, by far, most of the nation’s registered apprenticeship programs enrolled less than five apprentices, we would suggest that some of the most comprehensive and effective means to increasing minority and female participation in apprenticeship programs are beyond the capabilities of most programs and sponsors.

The Bilginsoy study found that the top 10 apprenticeable occupations were all in the construction trades, with the electricians and carpenters enrolling nearly 40 percent of the total apprentices registered during the years 1989 and 2003.

Looking at enrollment, the study found the percentage of Hispanics enrolled in registered apprenticeship programs rose from 6 percent to 26.2 percent; while African-Americans enrolled at a near-constant rate of approximately 9 percent; and enrollment rates among women fluctuated from 4.1% in 1989 to a high of 4.9% in 1992 and 93, before declining to its lowest in 2003 at 2.6 percent.



The study also found that white males completed apprenticeship programs at an average rate of 42 percent; Hispanic males completed at a rate of 34 percent; women completed at a 27.5 percent rate; and African-American males completed at a low of 26 percent.

Just as with the recent part 29 revisions, which gave apprenticeship programs an opportunity to compete for \$6.5 million in grants to develop programs, instructors, and best practices in the newly approved competency-based and hybrid models, as well as for the use of new instructional tools, we would urge the Department to look to its own resources to help apprenticeship programs achieve successful affirmative action goals.

To that end, we applaud the recent solicitation for grant applications for \$1.8 million in Women in Apprenticeship and Nontraditional Occupations (WANTO) grants – the first since 2003 – as a positive way to help apprenticeship programs place women into apprenticeable and nontraditional occupations.

However, we have been disappointed that the government has not increased investments over the last several years to expand and replicate some of the successful programs that received WANTO grants in 2003, including Nontraditional Employment for Women; Chicago Women in Trades; Tradeswomen, Inc.; and Oregon Tradeswomen, Inc.

These and other programs provide mentoring, child care, and other specialized support services that are cited as critical factors for the success of women in nontraditional jobs, including construction, by all the tradeswomen groups listed, as well as a 2009 study by Australia’s National Center for Vocational Education Research.

We would encourage the Department, as it prepares to revise 29 CFR 30, to consider the findings of a 2007 joint publication by the Association of Career and Technical Education, the National Alliance for Partnerships in Equity, the National Association of State Directors of Career Technical Education Consortium, and the National Women’s Law Center that found the level of under-representation of women in *high school* career and technical education (CTE) fields that are nontraditional for their gender has remained “virtually unchanged since 1979.” From this, we conclude that it is entirely possible that increasing the rates of women, specifically, who enter apprenticeship training programs, will require a huge investment in a cultural shift beyond the scope of even the most pro-active affirmative action plan.

FMI’s “2005-06 U.S. Construction Industry Training Report: Women in Construction,” listed some of the reasons why women choose *not to enter* into construction:

- The sense of isolation due to the lack of other women in the field;
- The temporary nature of the work;
- The scarcity of role models for senior women; and
- Schedules that conflict with child-rearing responsibilities.

As recently as April 22, 2010, at a Labor Department-sponsored roundtable, Jane Templin, outreach director for the International Brotherhood of Electrical Workers Electrical Training Institute in



Commerce, Calif., cited the lack of “math skills, child care and transportation” as barriers to women’s enrollment in apprenticeship programs.

The Australia study added: “Few of these resources for supportive services are available to employers and labor organizations that need assistance in recruiting, training, and retaining women in apprenticeable occupations and other nontraditional occupations.”

AGC notes that 29 CFR 30.4 (c) (5) encourages apprenticeship training programs to include as part of their affirmative action plan programs that provide outreach, pretesting, and training of potential applicants. The section further states that if no such programs are in existence, “sponsors shall seek to initiate these programs, or, when available, to obtain financial assistance from the Department.” We would like to see the Department’s current \$21 million annual investment in apprenticeship increase to help achieve the goals of this section.

As for other specific changes, we would suggest that 29 CFR 30.4 (c) (1) should be updated so that apprenticeship training programs are encouraged to use the latest technology (e.g., web-based media) to disseminate information about openings, requirements and general industry information.

We also would encourage greater collaboration between CareerOneStops and workforce investment boards and apprenticeship training programs. It helps no one for a CareerOneStop to send a candidate to an apprenticeship program who lacks a basic understanding of the industry and the nature and requirements of the work, or who does not possess the minimum qualifications necessary for successful completion of an apprenticeship program.

While AGC fully supports the goals of 29 CFR 30.4 (c) (3) to cooperate “with local school boards and vocational education systems,” we fear that with the federal government’s stagnant investment in CTE through the Carl Perkins Act, and local school boards’ continued reductions to these programs, there are fewer of these programs for apprenticeship training programs to work with. And, again referring to the 2007 study that found few women enrolled in nontraditional occupational classes, working with the programs that do exist still may not advance a real solution to the issue of approximately 3 percent of the nation’s construction trades workers being women. We also would recommend changing the term from “vocational” to “career and technical education” (CTE), which is the currently used term.

AGC of America and its members have profound respect for the apprenticeship approach to training. It is a time-honored and tested method of training highly skilled workers and, according to the DOL, the construction industry contributes an estimated \$250 million annually to support apprenticeship in the industry.

AGC believes that training funds spent on traditional construction industry apprenticeship training programs — in both the union and open shop sectors — constitute one of the nation’s most cost-effective and beneficial routes to increasing the number of construction workers in America. AGC also believes that the industry has made excellent strides in creating a level and open playing field so that all qualified candidates, regardless of gender or race, are given a fair opportunity to participate in the registered apprenticeship programs. We further believe that efforts to attract, train, and retain women, especially, in nontraditional jobs cannot begin and end with 29 CFR 30.

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We approve the Department's proactive approach to increasing the number of women and minorities in the nation's registered apprenticeship training programs. However, we have reservations both about the scope and nature of the planned changes to 29 CFR 30 and real concerns about possible increased financial burdens that would largely come down on an industry that as of March 2010 has a 24.9 percent unemployment rate.

We look forward to the continued dialogue on this important effort and stand ready to help the Department as it revises 30 CFR 29.

Liz Elvin
Senior Director of Workforce Development
Associated General Contractors of America